

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

**Susan Neese, M.D., and James Hurly,
M.D.,** on behalf of themselves and
others similarly situated,

Plaintiffs,

v.

Xavier Becerra, in his official capacity as
Secretary of Health and Human
Services; **United States of America,**

Defendants.

Case No. 2:21-cv-00163-Z

[PROPOSED] FINAL JUDGMENT

The Court enters judgment in favor of plaintiffs Susan Neese and James Hurly, as well as the certified class of all health-care providers subject to section 1557 of the Affordable Care Act, and against defendants Xavier Becerra and the United States of America.

The Court awards the plaintiffs and the certified class relief under 5 U.S.C. § 706(2), and it holds unlawful and sets aside Secretary Becerra's Notification of Interpretation and Enforcement of May 10, 2021.

The Court also awards the plaintiffs and the certified class declaratory relief under 28 U.S.C. § 2201, and it declares as follows:

1. The plaintiffs and the members of the certified class need not comply with the interpretation of "sex" discrimination adopted by Secretary Becerra in his Notification of Interpretation and Enforcement of May 10, 2021; and
2. Section 1557 of the Affordable Care Act does not prohibit discrimination on account of sexual orientation and gender identity, and the interpretation of "sex" discrimination that the Supreme Court of the

United States adopted in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), is inapplicable to the prohibitions on “sex” discrimination in Title IX of the Education Amendments of 1972 and in section 1557 of the Affordable Care Act.

This is a final judgment that fully and finally resolves all remaining parties and claims to this suit and may be appealed. All relief not granted in this judgment is denied.

Dated: _____

MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE